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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/539,864

10/19/2005

Serge Le Cocq

33900-176PUS

6674

27799

7590

07/21/2008

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EXAMINER

BARRY, ERIN P

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

07/21/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/539,864	<b>Applicant(s)</b> LE COCQ ET AL.	
	<b>Examiner</b> ERIN P. BARRY	<b>Art Unit</b> 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on 02 May 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 10-14 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-9 and 15 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

Claims 1-9 and 5-16 are pending in the application and 10-14 have been withdrawn. The 112, 2<sup>nd</sup> paragraph rejection of claims 1-9 has been overcome.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

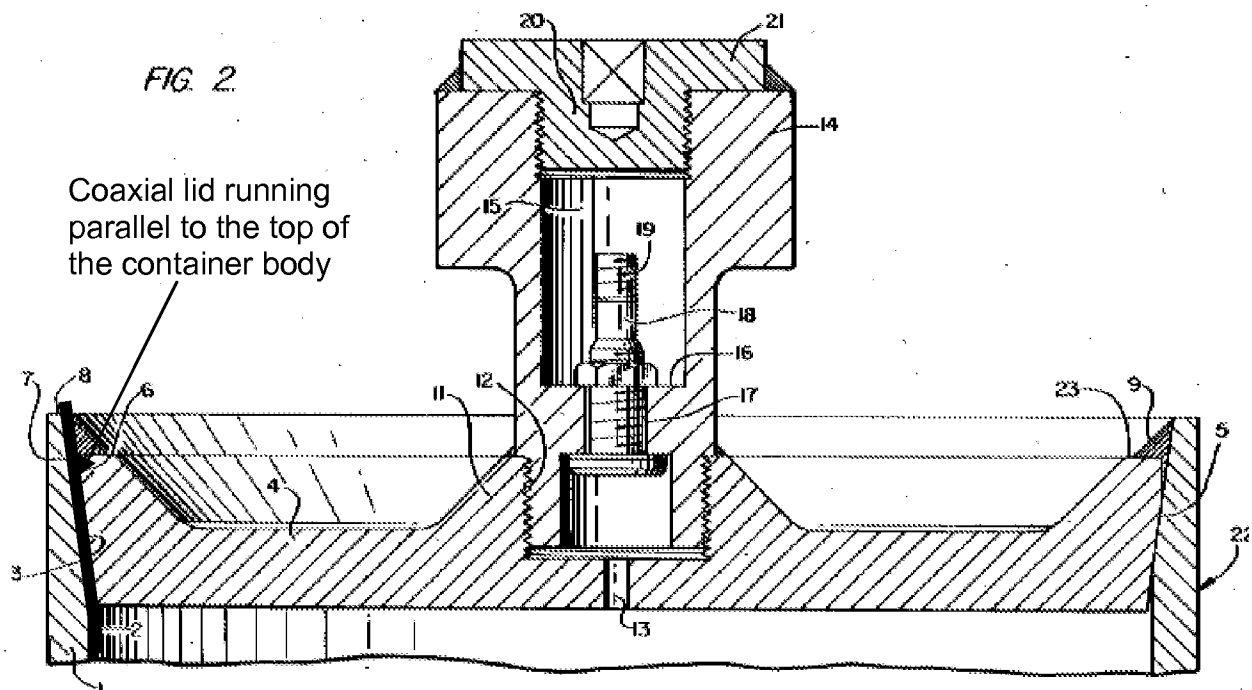
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 and 7-9 and 15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder et al. (4,673,814).

Regarding claims 1 and 9, Schroeder et al. has a metallic cylindrical shaped vessel with circular top for holding radioactive waste (abstract) with a vessel 1 with walls and a top open end where a metallic cover 4 is docked on a seating surface/docking 3 (col. 3 lines 1-8; figure 1). Schroeder et al. discloses a metal cover with an axis coaxial with the top end of the body where the walls of the cover are parallel to the body axis (figure 2 and below). The welding of the cover to the container takes place in a hostile environment since the material being sealed is radioactive. Schroeder et al. states the use of a remote controlled fillet welding operation for sealing radioactive material in a container (column 3 lines 52-60). While it is not stated that the weld is continuous, it

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would have been obvious at the time of the invention to one of ordinary skill in the art have a continuous weld as such is an art recognized effective way to provide tight seal to thereby ensure that the container is "safely sealed with a high impermeability to gas" and prevent any leakage (col. 3 lines 53-60).



Regarding claim 2, Schroeder et al. has a seating surface/docking guide 3 on the inside of the vessel 1.

Regarding claim 3, Schroeder et al. states that a radial force is exerted on the vessel wall while performing a fillet weld (column 4 lines 51-63). While this doesn't specifically state that it is welded without spot welding, it would have been obvious at the time of the invention to not have a spot welding to ensure a continuous seal to create a leak proof container.

Regarding claim 7, While Schroeder et al. does not mention the position of the vessel during welding, it would have been obvious at the time of the invention to one of ordinary skill in the art to have the vessel in the vertical position to prevent the radioactive contents in the container from leaching out.

Regarding claim 8, Schroeder et al. states that the cover is placed on the seating surface/docking guide 3. Schroeder et al. does mention a remotely-controlled programmed robot and automatic welding equipment which would allow the welding head to be rotated around the said container at the level of the ends of the walls maintained in contact.

Regarding claim 15, Schroeder et al. does not disclose nuclear waste as being the hazardous material. However, Schroeder et al. does state radioactive material or materials damaging to living organisms (column 1 lines 29-37). It would have been obvious at the time of the invention to one of ordinary skill in the art to use the container for nuclear waste because nuclear waste is a material that is damaging to living organisms.

3. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder et al. (4,673,814) and applied to claim 1 above, and further in view of Gordon (4,831,233)

Regarding claim 4 and 5, Schroeder et al. states the use of gas-shielded arc welding to weld the cover onto the vessel. Schroeder et al. doesn't specifically state plasma jet welding. However, Gordon does state the use of tungsten inert gas welding

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as a remote controlled welding operation (column 1 lines 12-16). It is commonly known in the art that tungsten inert gas welding (TIG) is a form of plasma jet welding. While Gordon doesn't specifically state that no filler metal was used, it is known in the art that inert gas welding does not require filler metal. It would have been obvious at the time of the invention to use tungsten inert gas, as stated by Gordon, for the weld on the vessel because an inert gas such as tungsten for welding because it provides greater control over the weld and has a strong, high quality weld needed to prevent leakage between the cover and body.

***Allowable Subject Matter***

4. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

While prior art was found with a degassing vent that could be blanked off after welding (Schroeder et al. (4,673,814), a location where the open jet opens into a groove with a degassing chimney that is machined in a docking guide could not be found.

5. Claim 16 is allowed.

6. The following is an examiner's statement of reasons for allowance: No prior art was found to have met all the limitations of claim 16 including the degassing chimney in the docking guide.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Response to Arguments***

7. Applicant's arguments filed 5/2/2008 have been fully considered but they are not persuasive. Regarding claim 1, the applicant argues that Schroeder et al. does not teach a parallel axis for a seal with no overlapping of the body and the cover. Schroeder et al. does state conical surfaces of the body and cover where the two mating surfaces are parallel to each other along at least the intermediate portion of the cover (as seen in the figure above). It is noted that the claim language is not limited to the mating surfaces being parallel over their entire contacting surfaces. The argument of overlapping of the body and cover is not commensurate with the scope of the claimed invention as the claims do not state that the body and cover are overlapping. Regarding claim 7, the applicant argues that Schroeder does not teach a horizontal weld between two conical surfaces. However, Schroeder et al. discloses welding the cover to the body by welding around the mated surfaces. Based on broadest interpretation of the claim, it would be considered a horizontal weld because the weld is running on the horizontal surface of the cover and body mated edge.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIN P. BARRY whose telephone number is (571)270-3634. The examiner can normally be reached on Monday through Thursday from 8am-5pm Eastern time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica Ward can be reached on (571) 272-1223. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/E. P. B./  
Examiner, Art Unit 1793  
7/14/2008

/Jessica L. Ward/  
Supervisory Patent Examiner, Art Unit 1793